SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Poochigian | Analyst: Jeani Brent | Bill Number: SB 1081

Related Bills: See Prior Analysis | Telephone: 845-3410 | Amended Date: 05/06/1999

Attorney: Patrick Kusiak | Sponsor:

SUBJECT: Determination Of Sale In This State Of Tangible Personal Property For Inclusion In Sles Factor/Deletes Condition That Purchaser Is U.S. Government

X DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions previously made by the department.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _________.

____ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO _______________________.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 26, 1999, STILL APPLIES.

____ OTHER - See comments below.

SUMMARY OF BILL

Under the Bank and Corporation Tax Law (B&CTL), this bill would modify the rules regarding the source of income from sales of tangible personal property. Specifically, this bill would delete the special treatment for sales made to the United States government. As a result, sales to the U.S. government generally would be sourced to the destination state, as are all other sales.

SUMMARY OF AMENDMENT

The May 6, 1999, amendments provide that sales to the U.S. government would be thrown back to California if the state of destination of the property cannot be determined. In addition, the amendments would eliminate a potential conflict between this bill and an election provided in the Multistate Tax Compact.

The April 15, 1999, amendments would remove the special treatment for sales made to the U.S. government located in California.

These amendments resolved the policy considerations addressed in the department's analysis of the bill as introduced February 26, 1999. Except for the discussion of this bill and the policy considerations, the department's prior analysis of the bill as introduced still applies.

SPECIFIC FINDINGS

This bill would modify the rules regarding the source of income from sales of tangible personal property. Specifically, this bill generally would remove from the throw-back rule sales to the U.S. government.

Board Position:			Department/Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR		
____ N	____ OUA	X PENDING	**Johnnie Lou Rosas**	**6/2/1999**

This bill would change existing law as it applies only to the sourcing of sales of tangible personal property to the U.S. government as follows:

1. Goods shipped from California and delivered to the U.S. government in California would continue to be sourced to California.
2. Goods shipped from California and delivered to the U.S. government in a state where the taxpayer is taxable no longer would be sourced to California and instead would be sourced to the destination state, unless the state of destination could not be determined, in which case the sale of goods would be sourced to California.
3. Goods shipped from California and delivered to the U.S. government in a state where the taxpayer is not taxable would continue to be sourced to California because of the general throw-back rule or because the state of destination could not be determined.
4. Goods shipped from another state and delivered to the U.S. government in California where the taxpayer is taxable in California no longer would be sourced to the state from which shipped and instead would be sourced to California.
5. Goods shipped from another state and delivered to the U.S. government in California where the taxpayer is not taxable in California would continue to be sourced to the state from which shipped.

This bill also would provide that, to the extent the sourcing rules in this bill differ from the Mulitstate Tax Compact rules.

TAX REVENUE ESTIMATE

Based on the discussion below, the revenue impact under the B&CTL is estimated to be as follows:

Effective Beginning on January 1, 1999 Enactment After June 30, 1999 (in millions)			
1999-0	2000-1	2001-2	2002-3
-$10	-$13	-$14	-$15

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

REVENUE ESTIMATE DISCUSSION

As amended, the revenue losses are reduced (by $10 million, $12 million, $13 million) from the original estimates as a result of the deletion of special treatment for sales made to the U.S. government located in California, thereby eliminating "nowhere" sales.

The estimate is based on the State Corporate Taxation Of Sales to the Federal Government (the report) issued by the Legislative Analyst's Office (LAO), January 1999.

Information presented in the Report concludes that substituting sales destination for state of origin for apportionment factor purposes would result in a net

impact of approximately $10 million annually in revenue losses.
The Report, which was based in part on available tax return information provided by the Department for the aerospace industry, recognizes that some companies would pay less taxes and others would pay more as a result of this bill, as amended. However, on the whole, less income would be apportioned to California. The out-year estimates above reflect growth based on projected increases in total corporate profits.

BOARD POSITION

Pending.